

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ALAN BROWN)
Plaintiff)
v.)
STATE STREET CORPORATION,)
and STATE STREET GLOBAL)
ADVISORS)
Defendants)

COMPLAINT
and jury trial demand
05-11178 RGS

RECEIPT # _____
AMOUNT \$ 25000
SUMMONS ISSUED 2
LOCAL RULE 4.1 -
WAIVER FORM -
MCF ISSUED -
BY DPTY. CLK. M.P.
DATE 6/7/2005

MAGISTRATE JUDGE

MBB

Introduction

1. This is a civil action by the former Vice Chairman and Group Chief Investment Officer of State Street Global Advisors, the largest institutional asset manager in the world, against his former employer. The plaintiff alleges the defendants breached an agreement he entered into with State Street Corporation's Chief Executive Officer as an inducement for the plaintiff to remain with the business at a time when many other senior managers were leaving. The plaintiff alleges that the defendants abruptly terminated his employment when he sought to enforce that agreement.

Parties

2. The plaintiff, Alan Brown, is a British citizen and a resident of London, England. Until his termination, he was Group Chief Investment Officer and Vice Chairman of State Street Global

Advisors (“SSgA”) and an Executive Vice President of State Street Corporation. Mr. Brown has over 30 years experience in investment management. He joined State Street in 1995. He was named Chief Investment Officer of the Year two years consecutively by “Financial News.”

3. The defendant State Street Corporation is a Massachusetts corporation with offices in Boston, Suffolk County, Massachusetts. State Street Corporation does business as, among other entities, State Street Global Advisors. SSgA holds itself out as the largest institutional asset manager in the world, with assets under management of approximately \$1.4 trillion. It is based in Boston, Massachusetts. (The defendants will be collectively referred to as “State Street.”)

Jurisdiction

4. Jurisdiction is founded on diversity of citizenship and amount. Plaintiff is a citizen of the United Kingdom and defendant is a corporation incorporated under the laws of the Commonwealth of Massachusetts having its principal place of business in Massachusetts. The matter in controversy exceeds, exclusive of interest and costs, the sum specified by 28 U.S.C. § 1332.

5. Jurisdiction is further founded on federal question jurisdiction pursuant to 28 U.S.C. § 1331 in that this action arises under federal law, the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, *et seq.*.
6. Venue is proper in this Court in accordance with 28 U.S.C. § 1391(a)(1) and (2).

Facts

7. Mr. Brown began working for State Street in 1995.
8. Mr. Brown initially served as Managing Director of State Street Global Advisors Limited, then called State Street Global Advisors U.K. Limited, the United Kingdom operations of SSgA.
9. In 1996, Mr. Brown became Non-U.S. Chief Investment Officer of SSgA and, in 1997, Group Chief Investment Officer of SSgA. Although he maintained his London residence, he was in daily contact with the Boston office and worked approximately one week per month in the United States, in addition to traveling world wide.
10. In 2000, Mr. Brown was appointed Executive Vice President of State Street Corporation. He received bonuses and benefits in that capacity.
11. In 2003, State Street offered a Voluntary Separation Plan to many of its employees and an enhanced Executive Voluntary Separation Plan

to Executive Vice Presidents as an inducement to accept early retirement. (Both plans are herein collectively referred to as "VSP").

12. An unexpectedly large number of employees opted for early retirement under this program, including two of the four senior managers at SSgA. As a result, State Street became concerned that it would lose all senior management at SSgA, including Mr. Brown.
13. In response to this concern and at Mr. Brown's suggestion, at a meeting in Boston in or about June 2003, David Spina, Chairman and Chief Executive Officer of State Street Corporation, offered a modified VSP package to Mr. Brown and another senior SSgA manager, SSgA's Chief Executive Officer, if they would agree not to leave the company in the immediate future but, instead, to remain active as leaders of SSgA. Mr. Spina proposed extending the time in which these senior managers could opt for the VSP package up to age 55, rather than the brief opt-in period then available for other State Street employees. Mr. Brown was 50 years old at that time.
14. Mr. Brown accepted Mr. Spina's offer.
15. The value to Mr. Brown of the VSP benefits is several million dollars.
16. In reliance on Mr. Spina's commitment to extend his eligibility for the VSP to age 55, Mr. Brown continued to work for SSgA and to devote

his time and energies to the company's best interests. Mr. Brown chose not to pursue potential employment with other firms in reliance on Mr. Spina's commitment to extend the VSP option to him.

17. Mr. Spina memorialized his commitment to Mr. Brown in a letter dated June 30, 2004 to the Chairman of the State Street Corporation Compensation Committee. In that letter Mr. Spina specifically informed that committee that he had made a "commitment" to Mr. Brown and Tim Harbert, SSgA chairman, that "[i]n exchange for their continued commitment to remain active as leaders of SSgA, State Street Corporation would hold available for them the same separation package the company was offering U.S. employees under what is known as the Voluntary Separation Program (VSP)" up to age 55.
18. Other employees to whom Mr. Spina extended modified VSP commitments have been permitted to opt for the VSP package in accordance with the modified terms of Mr. Spina's commitment, rather than being held to the terms of the standard VSP applicable to other State Street employees.
19. Mr. Spina was replaced as Chairman and Chief Executive Officer by Ronald Logue. On January 13, 2004, Mr. Logue affirmed to Mr. Brown that Mr. Brown was eligible for a modified VSP package in

accordance with Mr. Spina's commitment. Similarly, Luis J. de Ocejo, senior vice president for Human Resources, also confirmed Mr. Brown's entitlement to the VSP benefits.

20. On March 11, 2005, Mr. Brown notified Mr. Logue that he was electing to exercise his rights under the VSP.
21. In response to this notification, State Street terminated Mr. Brown's employment and denied that he was entitled to any VSP benefits. State Street has refused to provide Mr. Brown with the benefits of the VSP program.

COUNT ONE
EMPLOYEE RETIREMENT INCOME SECURITY ACT VIOLATION
29 U.S.C. §§ 1132(a)(1)(B) and 1140

The plaintiff repeats and realleges the foregoing.

22. The VSP concerned and related to the provision of one or more employee benefit plans.
23. The defendants discharged and discriminated against Mr. Brown in retaliation for his exercise of his rights under such plan.
24. The defendants discharged and discriminated against Mr. Brown with the purpose of interfering with the attainment of the rights to which he was entitled under such plans.

25. The defendants failed and refused to provide Mr. Brown with the benefits of such plans.

**COUNT TWO
BREACH OF CONTRACT**

The plaintiff repeats and realleges the foregoing.

26. Mr. Spina had actual authority to commit State Street to the modified VSP benefits agreement he offered to Mr. Brown and that Mr. Brown accepted.
27. In addition, Mr. Spina had apparent authority to commit State Street to the modified VSP benefits agreement he offered to Mr. Brown and that Mr. Brown accepted.
28. Mr. Spina's offer of the modified VSP benefits to Mr. Brown in return for Mr. Brown's commitment to remain an active leader of SSgA and Mr. Brown's acceptance of that offer constituted an offer and acceptance such that a contract was created between Mr. Brown and State Street.
29. Mr. Brown continued to work for State Street in accordance with the terms of that contract and his other contractual relationships with State Street and its subsidiaries.
30. State Street breached this contract by failing to provide Mr. Brown with the VSP benefits called for by this contract.

**COUNT THREE
DETRIMENTAL RELIANCE, PROMISSORY ESTOPPEL**

The plaintiff repeats and realleges the foregoing.

31. State Street reasonably expected the above promises and statements by Mr. Spina to induce Mr. Brown to continue in his employment, to decline other employment prospects and to accept Mr. Spina's offer in regard to the modified terms of the VSP package.
32. Mr. Brown did rely on Mr. Spina's promises and representations. Such reliance was reasonable in the circumstances. He continued his employment with State Street. He chose not to follow up on potentially lucrative alternative employment prospects from time to time and he devoted thousands of hours both at home and far from home to State Street's interests.

**COUNT FOUR
Breach of covenant of good faith and fair dealing**

The plaintiff repeats and realleges the foregoing.

33. Mr. Brown performed all duties required of him to receive the benefits to which Mr. Spina committed.
34. State Street discharged Mr. Brown in an attempt to avoid paying him the VSP benefits Mr. Spina promised would be paid.

35. By the above conduct the defendants breached the covenant of good faith and fair dealing implied in their employment contract with the plaintiff.
36. WHEREFORE, the plaintiff demands judgment against the defendants as follows:
 - a. For the full amount of all past, present and future benefits due to him pursuant to the VSP and all other benefit plans in which he is entitled to participate.
 - b. For the full amount of his damages.
 - c. A declaratory judgment, pursuant to 29 U.S.C. § 1332(a)(1)(B), stating Mr. Brown's rights to receive all benefits due to him pursuant to the VSP.
 - d. For the full amount of his attorneys fees and costs in this action, pursuant to 29 U.S.C. § 1332(g)(1).
 - e. Interest and costs in this action.
 - f. Such other relief as this Court deems just.

Jury demand – The plaintiff demands a jury trial.

Alan Brown, plaintiff
By his attorneys,

HARVEY A. SCHWARTZ

BBO. # 448080

LAURIE A. FRANKL

BBO # # 647181

Rodgers, Powers & Schwartz

18 Tremont Street

Boston, MA 02108

(617) 742-7010

Date: June 6, 2005

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Alan Brown v. State Street Corp., et. al.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.

II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, *Also complete AO 120 or AO 121
740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. for patent, trademark or copyright cases

III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310,
315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371,
380, 385, 450, 891.

IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660,
690, 810, 861-865, 870, 871, 875, 900.

V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

none

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES NO 7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES NO A. If yes, in which division do all of the non-governmental parties reside?Eastern Division Central Division Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division Central Division Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Harvey A. Schwartz, Rodaers, Powers & Schwartz LLPADDRESS 18 Tremont Street, Boston MA 02108TELEPHONE NO. 617 742-7010

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Brown, Alan

(b) County of Residence of First Listed Plaintiff United Kingdom
 (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

State Street Corporation and State Street Global Advisors

County of Residence of First Listed Defendant Suffolk
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
 LAND INVOLVED.

05 11178 RGS

(c) Attorney's (Firm Name, Address, and Telephone Number)

Harvey A. Schwartz, Rodgers, Powers & Schwartz LLP, 18 Tremont Street,
 Boston MA 02108 (617) 742-7010 BBO #448080

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/>
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/>
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/>

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	REAL PROPERTY <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	CIVIL RIGHTS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ft) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RS1 (405(g))
				FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to Dis. Judge from Magistrate Judgment
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
ERISA, 29 U.S.C. s. 1001 et. seq.

Brief description of cause:

Plaintiff alleges he was denied benefits in violation of his ERISA rights and contract rights.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
 UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

June 7, 2005

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE